



FmHA AN No. 1710 (1956)

December 30, 1987

SUBJECT: Debt Settlement of Non-Program (NP), Economic Opportunity (EO) Loans, and Claims Against Third-Party Converters, and Housing Loans other than Single Family Housing

TO: All State Directors, State Directors-at-Large,  
District Directors, and County Supervisors, FmHA

Purpose/Intended Outcome:

The purpose of this AN is to replace AN No. 1671 (1956) dated November 12, 1987. This AN will also provide guidance on how to debt settle the subject accounts and claims. The subject loans and claims are those which FmHA does not have any legal authority to settle under the CONACT or the Housing Act of 1949. Settlement of these loans and claims falls under the Federal Claims Collection Act. The Department of Justice and the General Accounting Office are charged with the responsibility for implementing the Federal Claims Collection Act and have promulgated the Federal Claims Collection Act Joint Standards to inform Government agencies how to settle debts and claims which the agency does not have independent statutory authority to settle. With the exception of loans and claims with outstanding principal balances of \$20,000 or less, settlements must be submitted to and approved by the United States Attorney or the Department of Justice.

Comparison with Previous AN:

This AN removes Economic Emergency (EE) loans from the subject loans and claims listed in AN No. 1671 (1956). It provides for the debt settlement of the subject loans and claims which have been discharged in bankruptcy. It also provides guidance for handling the subject loans and claims in combination with certain other loans. Please retain the copy of Joint Standards and attachments that was attached to AN No. 1671 (1956).

Implementation Responsibilities:

Debt settlement of the subject loans and claims falls in the following categories:

EXPIRATION DATE: December 31, 1988

FILING INSTRUCTIONS:  
Preceding FmHA  
Instruction 1956-B



1710(1956)

1. Loans and claims less than \$20,000.

Settlement of loans and claims may be approved by the Administrator when the outstanding balance of the indebtedness involved in the settlement has an outstanding principal balance of \$20,000 or less, exclusive of interest, penalties and administrative costs. These loans and claims will be submitted to the National Office on Form FmHA 456-1, "Application for Settlement of Indebtedness," for debt settlement.

2. Loans and claims of \$20,000 to \$100,000.

Loans and claims with a gross original amount of less than \$100,000 but with a gross amount greater than \$20,000, (exclusion of interest penalties and costs) after approval by the State Director, will be referred to your Regional Office of the General Counsel (OGC) for referral to the United States Attorney in whose judicial district the debtor can be found. In determining where to refer an offer, it depends on the initial principal balance. For example, an initial principal balance of \$110,000 which had been paid down to an unpaid principal balance of \$95,000 would not be referred to the U.S. Attorney for approval of the compromise offer, but would fall within paragraph 3 and be referred to the National Office. On the other hand, a loan or claim with an original principal balance of \$95,000 and a total amount due to FmHA of \$110,000 because of unpaid interest, would be referred to the U.S. Attorney. The form to be used is the Claims Collection Litigation Report (CCLR). This form should be available through the U.S. Attorney. A memorandum from the State Director should be attached to the CCLR, recommending acceptance of the debt settlement. If the State Director after reviewing the CCLR does not recommend acceptance, the State Director has the authority to reject the settlement of the debt.

3. Loans and claims over \$100,000.

Loans and claims with a gross original amount over \$100,000 will be referred to the Administrator and will include the following:

1. The case file(s).
2. A completed CCLR.
3. Copies of the notes, security agreements and mortgages.
4. A current appraisal of any security owned by the borrower.

1710(1956)

5. A narrative which will include:

- a. Recommendation for the acceptance of the debt settlement.
- b. Why the borrower failed.
- c. Steps taken to collect the loan(s).
- d. An analysis of the debtor's future repayment ability.
- e. Why acceptance of the debt settlement offer is in the best interest of FmHA.

If the Administrator concurs with the recommendation for the debt settlement, it will be referred to the FmHA National Office OGC for referral to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530.

4. Loans and claims discharged in bankruptcy.

If there is no remaining security for the debt, debts discharged in Chapter 7 bankruptcy will be handled and approved by the same method for bankruptcy cases covered in FmHA Instruction 1956-B, "Debt Settlement-Farmer Programs and Single Family Housing."

5. Loans and claims in combination with certain other loans.

When a debtor has the subject loans and claims and farmer program and/or single family housing loan(s), as defined in FmHA Instruction 1956-B, the farmer program and/or single family housing loan(s) will be debt settled prior to the submission for debt settlement of the subject loans or claims. In such cases the subject loans and claims should be listed on Form FmHA 456-1, as other debts owed FmHA under Part II(B). Normally, all the security for the subject loans and claims should be disposed of prior to the submission for debt settlement.

It is not necessary to obtain approval of the United States Attorney or the Department of Justice (as the case may be) in cases where FmHA decides not to settle a loan or claim.



VANCE L. CLARK  
Administrator